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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

CHRISTINE T.,

Petitioner,

v.

THE SUPERIOR COURT OF
MONTEREY COUNTY,

Respondent;

MONTEREY COUNTY DEPARTMENT
OF SOCIAL SERVICES,

Real Party in Interest.

H028261

(Monterey County
Super. Ct. Nos. J38284, J38285,
J38286, J38287)

Christine T., the mother of the four children at issue here, files this petition for extraordinary writ challenging the findings and orders of the juvenile court in setting a hearing pursuant to Welfare and Institutions Code section 366.26.¹ (§ 366.26, subd. (l); Cal. Rules of Court, rules 38 and 38.1, former rule 39.1B.) Mother argues that the juvenile court erred in terminating her reunification services at the contested 12-month review hearing because she did not receive reasonable services. Since we find substantial evidence supports the juvenile court's findings and orders, we will deny the petition.

¹ Further statutory references are to the Welfare and Institutions Code unless otherwise specified.

FACTS AND PROCEDURAL HISTORY

On August 21, 2003, the Monterey County Department of Social Services (the Department) filed separate petitions as to the children Antoinette (born February 1993), Anthony (born December 1995), Chloe (born November 1996), and Gabriel (born October 2001), pursuant to section 300, subdivisions (a) [serious physical harm], (b) [failure to protect], and (g) [no provision for support]. The petitions, as subsequently amended, alleged that the parents of the children had an extensive history of domestic violence.² Since 1998, the Department had received six referrals alleging repeated physical abuse of the children and domestic violence between the parents. A fifth child, Isaac (born October 2002), had died of Sudden Infant Death Syndrome in February 2003 while in daycare.

The amended petitions also alleged that, on August 19, 2003, the Department received a referral from school personnel about Anthony, who had burn marks around his neck and a faded black eye caused by father. Anthony told the social worker that father became upset with him because he could not find his school uniform, grabbed him by the chin, slapped him across the face, threw him across the room, grabbed him by his necklace, and dragged him across the room. Antoinette and Chloe confirmed that they heard the entire incident and that father hits all the children at least once a week. The children were placed into protective custody. When the social worker went to pick up Gabriel at his daycare and had the three older children in the car, the daycare provider refused to give Gabriel to the social worker. The parents arrived and began screaming at the social worker. Father yelled at Anthony, grabbed his face, and began shoving the three older children out the back door. The mother yelled at the children to get in the car. Father shoved the daycare provider, yanked Gabriel out of her arms, and left with all the children in his car, with mother positioning her van to prevent anyone from following.

² The father of the children has not petitioned this court for relief.

Father led the police on a high-speed chase and was stopped and arrested. Father also had an extensive history of violence dating back to 1996, including convictions for inflicting corporal injury on a spouse/cohabitant in February 1996 and April 2000, battery convictions in December 1998 and April 2000, and a conviction for violating a protective order in November 1999.

In her jurisdictional/dispositional report, prepared in October 2003, the social worker recommended that the juvenile court sustain the amended petitions pursuant to sections 300, subdivisions (a) and (b) and recommended out-of-home placement with reunification services for mother and father. The social worker confirmed the allegations of the amended petitions.

The social worker also reported that father had completed two court-ordered 52-week domestic violence classes, and father stated that he would continue to use physical discipline on the children. A family assessment revealed that the family system was immersed in a cycle of abuse and violence. The parents began dating at age 14, had their first child when father was age 15, and had separated three times. Domestic violence started in their relationship after their first child was born. Father minimized and rationalized his own violent behavior and appeared to use threats and intimidation to control the behavior of others. Mother presented as protective of her husband, minimized the abuse the children endured, and had been unable to protect the children from physical abuse.

On October 24, 2003, the juvenile court found the allegations of the amended petitions true, declared the children dependents of the court, and ordered out-of-home placement with reunification services for both parents. The juvenile court also adopted the reunification service plan recommended by the Department and continued the matter for a six-month review hearing. The objectives of mother's reunification service plan were for mother to develop and demonstrate an understanding of how domestic violence had affected her children and parenting, demonstrate the ability to protect her children

from physical abuse, and develop and demonstrate her ability to meet her mental health needs. Under the service plan, mother was required to enroll in a domestic violence counseling support group, develop a personal safety plan for herself and her children, and participate in individual counseling.

In the six-month review report, prepared in April 2004, the social worker recommended continuing out-of-home placement with reunification services for both parents. The social worker reported that both parents immediately began participating in services after the jurisdictional/dispositional hearing. Although mother had established a rapport with her therapist, the decision was made to change to a new therapist so that the parents and children could access counseling services together. The social worker also reported that the parents did not acknowledge the level of physical and emotional violence that took place in the home and that they insisted years had passed since the last incident. Mother began seeing her new therapist in January 2004, and the therapist reported that mother's position regarding the abuse of the children had changed little since the original assessment.

At the six-month review hearing in late April 2004, the juvenile court expressed deep concerns about the parents' lack of progress due to the parents' continued denial and minimizing of the severity of the domestic violence and the physical abuse perpetrated on the children. The juvenile court observed, "So I told you both early on that things were not looking good based upon your attitudes, and they're still not looking good based upon your attitudes." The juvenile court adopted the social worker's recommended findings and orders and continued the matter for a 12-month review in October 2004.

In the meantime, a psychological evaluation of father, prepared in September 2004, concluded that father would not benefit from further reunification services. Father denied having any problems with domestic violence, denied ever using excessive corporal punishment with the children, and blamed others for his problems. According to the psychological evaluation, being violent with his wife and children was consistent with

father's belief system, and he believed that it was appropriate to beat family members when they annoyed him. The report concluded that no therapist was likely to change father's mind and recommended terminating his reunification services.

In the 12-month review report, prepared in October 2004, the social worker recommended termination of reunification services. The social worker reported that the parents had consistently failed to understand the seriousness of the violence in the home and the impact it had on the children and that return of the children to the parents would create a substantial risk of detriment to the children's well-being.

The social worker reported that mother participated in weekly therapy with her therapist, but she stopped attending in September 2004 when she learned that the Department recommended termination of reunification services. The therapist reported that mother had made little progress in taking responsibility for the dysfunction in her relationship with father or for her failure to protect the children from his physical abuse. The social worker also reported that mother told her therapist and the social worker numerous times that she did not intend to separate from father. Mother did not begin attending a domestic violence support group until August 2004. Since mother learned of the social worker's recommendation to terminate reunification services, mother filed for divorce from father, began individual counseling with a new therapist, and began the Preventing Early Abuse through Collaborative Counseling and Education program at the Women's Crisis Center.

The social worker also reported that the parents had regularly visited with the children and participated in individual therapy but had not made progress in their case plan activities. The parents had spent much of the review period being angry and resentful for the Department's involvement with their family, and they did not take responsibility for the reasons for the children's removal or the level of violence in the home. The Department also was concerned about father's negative psychological evaluation and mother's insistence throughout the dependency that she planned to stay

with him. The Department also had strong concerns about mother's ability to protect the children from father and to set boundaries with him even if she separated from him.

The juvenile court conducted the contested 12-month review hearing in December 2004. The social worker, mother, and her new therapist testified at the contested hearing. At the conclusion of the hearing, the juvenile court noted that there were different ways to look at the evidence presented: Either mother had a late awakening as to her responsibilities as a parent, or mother had been recalcitrant the whole time she was asked to participate in services. The juvenile court took the matter under submission.

The juvenile court issued a written ruling terminating reunification services. The juvenile court found that it "disbelieve[d], in large measure, the testimony of the mother . . . as to the critical question of whether she has, at long last, accepted and acknowledged a long standing (at least 6 year) home environment of inappropriate in-home violence perpetrated by her husband, and physical and emotional abuse of her children on her own part as well." The juvenile court also noted that mother's supposed change in attitude took place only after the social worker informed her that her recommendation was going to be termination of services. The juvenile court also found that mother's "statements did not display a true change of attitude and belief, but were instead consistent with someone going through the motions to achieve a desired result – much as her therapist had described her as someone just filling a chair with little motivation or intention to learn." The juvenile court adopted the findings and recommendations of the Department and set a section 366.26 hearing for April 8, 2005.

DISCUSSION

Mother argues that the juvenile court erred in finding that reasonable reunification services had been provided to her. Mother claims that the individual counseling services were inadequate because she was allowed to remain with an ineffective therapist. The Department counters that there was substantial evidence to support the juvenile court's

finding that reasonable services were provided to mother. We agree with the Department.

“Only where there is clear and convincing evidence the [Department] has provided or offered reasonable services may the [juvenile] court order a section 366.26 hearing. (§ 366.21, subds. (g)(1) and (g)(3).)” (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1165.) A reunification service plan must be tailored to fit the specific circumstances of each family and must be designed to eliminate those conditions that led to the juvenile court’s jurisdictional findings. (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777.) “ ‘[T]he record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult (such as helping to provide transportation and offering more intensive rehabilitation services where others have failed).’ [Citation.]” (*Robin V. v. Superior Court, supra*, 33 Cal.App.4th at p. 1165, original italics; see also *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006-1007.)

The fact that additional services might have been possible does not render the services inadequate. “In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

We review the juvenile court’s determination that reasonable services were provided to mother under the substantial evidence test. “In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of

the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact.” (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547.)

Mother’s challenge to the adequacy of the services is based on her assertion that she spent eight months with an ineffective therapist and that the Department should have provided a new therapist since the Department was aware that she was not progressing in therapy. However, the record contains substantial evidence that mother’s failure to make progress was due to her recalcitrant attitude and not the adequacy of the services provided. There was evidence that mother maintained a guarded and untrusting stance with the therapist and attended treatment only because it was court-ordered, and her progress was significantly stifled by her lack of disclosure and honest engagement in the process. Similarly, mother did not start attending the domestic violence support group until August 2004 and only after the social worker repeatedly encouraged her to go. Court-ordered services are voluntary and cannot be forced on an unwilling or indifferent parent. (See *In re Christina L.* (1992) 3 Cal.App.4th 404, 414.) Although mother now seeks to blame her therapist and the Department for her lack of progress, the juvenile court reasonably concluded otherwise.

In addition, when mother expressed a desire to change therapists, the social worker took reasonable steps to assist mother in determining whether to make such a change. Specifically, the record reveals that when mother told the social worker in June 2004 that she was not comfortable with her therapist and wanted to go back to her original therapist, the social worker contacted the original therapist to learn whether the original therapist was available. However, the original therapist was unavailable until mid-July 2004. The social worker presented this information to mother, told mother that an interruption in therapy might impact her case, and asked mother whether she wanted to

continue with her existing therapist during that time. The social worker and mother then decided to meet with the existing therapist to talk about the issue. At the beginning of the meeting, mother said that she had a good appointment time and did not need to switch therapists. They spent the rest of the meeting discussing the goals of therapy and the progress mother needed to make. After the June 2004 meeting, mother did not tell the social worker that she did not want to see the therapist until mother stopped seeing the therapist in September 2004. The record reflects that the social worker acted reasonably by meeting with mother about her concerns, following up with the original therapist to see if returning to her was an option, offering mother the choice whether to continue or change therapists, and meeting with mother and her existing therapist to discuss the issue and her therapy goals.

Based on this record, substantial evidence supports the juvenile court's determination that the Department provided or offered reasonable reunification services.

DISPOSITION

The petition for extraordinary writ is denied.

RUSHING, P.J.

WE CONCUR:

PREMO, J.

ELIA, J.